

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,	)	
425 Third Street, S.W., Suite 800	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
Office of General Counsel	)	
Washington, DC 20505,	)	
	)	
Defendant.	)	
_____	)	

COMPLAINT

Plaintiff Judicial Watch, Inc., by and through its undersigned counsel, brings this action against Defendant Central Intelligence Agency (“CIA”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest

mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered in Langley, Virginia. Defendant has possession, custody, and control of public records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On February 22, 2013, Plaintiff sent a FOIA request to Defendant via certified mail and facsimile seeking a copy of the following:

Transcript of the May 12, 2012 conference call between John Brennan and various TV terrorism consultants regarding a foiled plot to bomb a U.S. aircraft, as released to the Senate Intelligence Committee.

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiff's request within twenty (20) working days of receiving the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination.

7. By letter dated March 21, 2013, Defendant acknowledged receiving Plaintiff's request on March 5, 2013, and assigned the request reference number F-2013-01016. Defendant's letter stated that it was unlikely Defendant could respond to the request within 20 working days, but failed to state when a determination on the request would be made or otherwise invoke the extension of time provision made available in 5 U.S.C. § 552(a)(6)(B). Defendant's letter also contained the following statement:

You have the right to consider our honest appraisal as a denial of your request and you may appeal to the Agency Release Panel. A more practical approach would permit us to continue processing your request and respond to you as soon as we can. You will retain your appeal rights and, once you receive the results of our search,

can appeal at that time if you wish. We will proceed on that basis unless you object.

8. Defendant's statement is not an adverse determination within the meaning of 5 U.S.C. § 552(a)(6)(A), and, therefore, no administrative appeal of any adverse determination was necessary or possible.

9. As of the date of this Complaint, Defendant has failed to: (i) determine whether to comply with Plaintiff's request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

10. Because Defendant failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A)-(B), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its FOIA request, reference number F-2013-01016, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request, reference number F-2013-01016, and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request, reference number F-2013-01016, and a *Vaughn* index of any responsive records withheld under claim of

exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 21, 2013

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Paul J. Orfanedes
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